

must be within one year before or after the date of the contested signature.

(3) *Unauthorized payment.* In the case of a borrower requesting a discharge because the school, without the borrower's authorization, endorsed the borrower's loan check or signed the borrower's authorization for electronic funds transfer, the borrower shall—

(i) State that he or she did not endorse the loan check or sign the authorization for electronic funds transfer or authorize the school to do so;

(ii) Provide five different specimens of his or her signature, two of which must be within one year before or after the date of the contested signature;

(iii) State that the proceeds of the contested disbursement were not delivered to the student or applied to charges owed by the student to the school.

(4) *Claim to third party.* The borrower shall state whether the borrower (or student) has made a claim with respect to the school's false certification or unauthorized payment with any third party, such as the holder of a performance bond or a tuition recovery program, and, if so, the amount of any payment received by the borrower (or student) or credited to the borrower's loan obligation.

(5) *Cooperation with Secretary.* The borrower shall state that the borrower (or student)—

(i) Agrees to provide to the Secretary upon request other documentation reasonably available to the borrower that demonstrates that the borrower meets the qualifications for discharge under this section; and

(ii) Agrees to cooperate with the Secretary in enforcement actions as described in §685.213(d) and to transfer any right to recovery against a third party to the Secretary as described in §685.213(e).

(d) *Discharge procedures.* (1) If the Secretary determines that a borrower's Direct Loan may be eligible for a discharge under this section, the Secretary mails the borrower a disclosure application and an explanation of the qualifications and procedures for obtaining a discharge. The Secretary also promptly suspends any efforts to collect from the borrower on any affected

loan. The Secretary may continue to receive borrower payments.

(2) If the borrower fails to submit the written request and sworn statement described in paragraph (c) of this section within 60 days of the Secretary's mailing the disclosure application, the Secretary resumes collection and grants forbearance of principal and interest for the period in which collection activity was suspended. The Secretary may capitalize any interest accrued and not paid during that period.

(3) If the borrower submits the written request and sworn statement described in paragraph (c) of the section, the Secretary determines whether to grant a request for discharge under this section by reviewing the request and sworn statement in light of information available from the Secretary's records and from other sources, including guaranty agencies, State authorities, and cognizant accrediting associations.

(4) If the Secretary determines that the borrower meets the applicable requirements for a discharge under paragraph (c) of this section, the Secretary notifies the borrower in writing of that determination.

(5) If the Secretary determines that the borrower does not qualify for a discharge, the Secretary notifies the borrower in writing of that determination and the reasons for the determination.

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(Authority: 20 U.S.C. 1087a *et seq.*)

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§685.215 Consolidation.

(a) *Direct Consolidation Loans.* A borrower may consolidate one or more education loans made under certain Federal programs into one or more Direct Consolidation Loans. Loans consolidated into a Direct Consolidation Loan are discharged when the Direct Consolidation Loan is originated.

(b) *Loans eligible for consolidation.* The following loans may be consolidated into a Direct Consolidation Loan:

(1) Federal Stafford Loans.

(2) Guaranteed Student Loans.

(3) Federal Insured Student Loans (FISL).

- (4) Direct Subsidized Loans.
- (5) Direct Subsidized Consolidation Loans.
- (6) Federal Perkins Loans.
- (7) National Direct Student Loans (NDSL).
- (8) National Defense Student Loans (NDSL).
- (9) Federal PLUS Loans.
- (10) Parent Loans for Undergraduate Students (PLUS).
- (11) Direct PLUS Loans.
- (12) Direct PLUS Consolidation Loans.
- (13) Federal Unsubsidized Stafford Loans.
- (14) Federal Supplemental Loans for Students (SLS).
- (15) Federal Consolidation Loans.
- (16) Direct Unsubsidized Loans.
- (17) Direct Unsubsidized Consolidation Loans.
- (18) Auxiliary Loans to Assist Students (ALAS).
- (19) Health Professions Student Loans (HPSL) and Loans for Disadvantaged Students (LDS) made under subpart II of part A of title VII of the Public Health Service Act.
- (20) Health Education Assistance Loans (HEAL).
- (21) Nursing loans made under subpart II of part B of title VIII of the Public Health Service Act.
- (c) *Types of Direct Consolidation Loans.* (1) The loans identified in paragraphs (b)(1) through (8) of this section may be consolidated into a Direct Subsidized Consolidation Loan.
- (2) The loans identified in paragraphs (b)(9) through (12) of this section may be consolidated into a Direct PLUS Consolidation Loan.
- (3) The loans identified in paragraphs (b)(13) through (21) of this section may be consolidated into a Direct Unsubsidized Consolidation Loan. In addition, Federal Consolidation Loans under (b)(15) of this section may be consolidated into a Direct Subsidized Consolidation Loan, if they are eligible for interest benefits during a deferment period under Section 428C(b)(4)(C) of the Act.
- (d) *Eligibility for a Direct Consolidation Loan.* (1) A borrower may obtain a Direct Consolidation Loan if, at the time the borrower applies for such a loan,

the borrower meets the following requirements:

- (i) The borrower either—
 - (A) Has an outstanding balance on a Direct Loan; or
 - (B) Has an outstanding balance on an FFEL loan and asserts either—
 - (1) That the borrower is unable to obtain an FFEL consolidation loan; or
 - (2) That the borrower is unable to obtain an FFEL consolidation loan with income-sensitive repayment terms acceptable to the borrower and is eligible for the income contingent repayment plan under the Direct Loan Program.
- (ii) On the loans being consolidated, the borrower is—
 - (A) In an in-school period and seeks to consolidate loans made under both the FFEL Program and the Direct Loan Program;
 - (B) In an in-school period at a school participating in the Direct Loan Program and seeks to consolidate loans made under the FFEL Program;
 - (C) In a six-month grace period;
 - (D) In a repayment period but not in default;
 - (E) In default but has made satisfactory repayment arrangements, as defined in paragraph (2) of that term under § 685.102(b), on the defaulted loan; or
 - (F) In default but agrees to repay the consolidation loan under the income contingent repayment plan described in § 685.208(f) and signs the consent form described in § 685.209(d)(5).
- (iii) The borrower certifies that no other application to consolidate any of the borrower's loans listed in paragraph (b) of this section is pending with any other lender.
- (iv) The borrower agrees to notify the Secretary of any change in address.
- (v) In the case of a Direct PLUS Consolidation Loan—
 - (A) The borrower may not have an adverse credit history as defined in § 685.200(b)(7)(ii); or
 - (B) If the borrower has such an adverse credit history, the borrower shall obtain an endorser for the consolidation loan who does not have an adverse credit history or provide documentation satisfactory to the Secretary that extenuating circumstances relating to the borrower's credit history exist.

(vi) In the case of a defaulted Direct Consolidation Loan, the borrower obtains the approval of the Secretary.

(vii) In the case of a loan on which the holder has obtained a judgment, the borrower obtains the approval of the Secretary.

(2) Two married borrowers may consolidate their loans together if they meet the following requirements:

(i) At least one spouse meets the requirements of paragraphs (d)(1)(i) and (d)(1)(v) of this section.

(ii) Both spouses meet the requirements of paragraphs (d)(1)(ii) through (d)(1)(iv) of this section.

(iii) Each spouse agrees to be held jointly and severally liable for the repayment of the total amount of the consolidation loan and to repay the loan regardless of any change in marital status.

(e) *Application for a Direct Consolidation Loan.* To obtain a Direct Consolidation Loan, a borrower or borrowers shall submit a completed application to the Secretary. A single application may be used for one or more consolidation loans. A borrower may add eligible loans to a Direct Consolidation Loan by submitting a request to the Secretary within 180 days after the date on which the Direct Consolidation Loan is originated.

(f) *Origination of a consolidation loan.* (1)(i) The holder of a loan that a borrower wishes to consolidate into a Direct Loan shall complete and return the Secretary's request for certification of the amount owed within 10 business days of receipt or, if it is unable to provide the certification, provide to the Secretary a written explanation of the reasons for its inability to provide the certification.

(ii) If the Secretary approves an application for a consolidation loan, the Secretary pays to each holder of a loan selected for consolidation the amount necessary to discharge the loan.

(iii) For a Direct loan or FFEL Program loan that is in default, the Secretary limits collection costs that may be charged to the borrower to no more than those authorized under the FFEL Program and may impose reasonable limits on collection costs paid to the holder.

(2) Upon receipt of the proceeds of a Direct Consolidation Loan, the holder of a consolidated loan shall promptly apply the proceeds to fully discharge the borrower's obligation on the consolidated loan. The holder of a consolidated loan shall notify the borrower that the loan has been paid in full.

(3) The principal balance of a Direct Consolidation Loan is equal to the sum of the amounts paid to the holders of the consolidated loans.

(4) If the amount paid by the Secretary to the holder of a consolidated loan exceeds the amount needed to discharge that loan, the holder of the consolidated loan shall promptly refund the excess amount to the Secretary to be credited against the outstanding balance of the Direct Consolidation Loan.

(5) If the amount paid by the Secretary to the holder of the consolidated loan is insufficient to discharge that loan, the holder shall notify the Secretary in writing of the remaining amount due on the loan. The Secretary promptly pays the remaining amount due.

(g) *Interest rate.* The interest rate on a Direct Subsidized Consolidation Loan or a Direct Unsubsidized Consolidation Loan is the rate established for Direct Subsidized Loans and Direct Unsubsidized Loans under § 685.202(a)(1). The interest rate on a Direct PLUS Consolidation Loan is the rate established for Direct PLUS Loans under § 685.202(a)(2).

(h) *Repayment plans.* A borrower may repay a Direct Consolidation Loan under any of the repayment plans described in § 685.208, except that—

(1) A borrower may not repay a Direct PLUS Consolidation Loan under the income contingent repayment plan; and

(2) A borrower who became eligible to consolidate a defaulted loan under paragraph (d)(1)(ii)(E) of this section shall repay the consolidation loan under the income contingent repayment plan unless—

(i) The borrower was required to and did make a payment under the income contingent repayment plan in each of the prior three (3) months; or

(ii) The borrower was not required to make payments but made three reasonable and affordable payments in each of the prior three (3) months; and

(iii) The borrower makes and the Secretary approves a request to change plans.

(i) *Repayment period.* (1) Except as noted in paragraph (i)(4) of this section, the repayment period for a Direct Consolidation Loan begins on the day the loan is disbursed.

(2) Under the extended or graduated repayment plan, the Secretary determines the repayment period under § 685.208(e) on the basis of the outstanding balances on all of the borrower's loans that are eligible for consolidation and the balances on other education loans except as provided in paragraph (i)(3) of this section.

(3)(i) The total amount of outstanding balances on the other education loans used to determine the repayment period under the graduated or extended repayment plan may not exceed the amount of the Direct Consolidation Loan.

(ii) The borrower may not be in default on the other education loan unless the borrower has made satisfactory repayment arrangements with the holder of the loan.

(iii) The lender of the other educational loan may not be an individual.

(4) A Direct Consolidation Loan receives a grace period if it includes a Direct Loan or FFEL Program loan for which the borrower is in an in-school period at the time of consolidation. The repayment period begins the day after the grace period ends.

(j) *Repayment schedule.* (1) The Secretary provides a borrower of a Direct Consolidation Loan a repayment schedule before the borrower's first payment is due. The repayment schedule identifies the borrower's monthly repayment amount under the repayment plan selected.

(2) If a borrower adds an eligible loan to the consolidation loan under paragraph (e) of this section, the Secretary makes appropriate adjustments to the borrower's monthly repayment amount and repayment period.

(k) *Refunds received from schools.* If a lender receives a refund from a school on a loan that has been consolidated

into a Direct Consolidation Loan, the lender shall transmit the refund and an explanation of the source of the refund to the Secretary within 30 days of receipt.

(l) *Special provisions for joint consolidation loans.* The provisions of paragraphs (l)(1) through (3) of this section apply to a Direct Consolidation Loan obtained by two married borrowers.

(1) *Deferment.* To obtain a deferment on a joint Direct Consolidation Loan under § 685.204, both borrowers shall meet the requirements of that section.

(2) *Forbearance.* To obtain forbearance on a joint Direct Consolidation Loan under § 685.205, both borrowers shall meet the requirements of that section.

(3) *Discharge.* (i) To obtain a discharge of a joint Direct Consolidation Loan under § 685.212, each borrower shall meet the requirements for one of the types of discharge described in that section.

(ii) If a borrower meets the requirements for discharge under § 685.212(d) or (e) on a loan that was consolidated into a joint Direct Consolidation Loan and the borrower's spouse does not meet the requirements for any type of discharge described in § 685.212, the Secretary discharges a portion of the consolidation loan equal to the amount of the loan that would have been eligible for discharge under the provisions of § 685.212(d) or (e), as applicable.

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(Authority: 20 U.S.C. 1078-8, 1087a *et seq.*)

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Subpart C—Requirements, Standards, and Payments for Direct Loan Program Schools

§ 685.300 Agreements between an eligible school and the Secretary for participation in the Direct Loan Program.

(a) *General.* (1) Participation of a school in the Direct Loan Program means that eligible students at the school may receive Direct Loans. To participate in the Direct Loan Program, a school shall—